

SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE
COURT APPOINTMENTS THROUGH
THE OFFICE OF RESPONDENT PARENTS' COUNSEL

The following policy is adopted to assist in the administration of justice with respect to the appointment, payment, and training of Respondent Parents' Counsel (RPC) appointed as counsel on behalf of indigent parents subject to dependency and neglect proceedings by the Office of Respondent Parents' Counsel (ORPC).

I. Mission

The ORPC's mission is to protect the fundamental right to parent by providing effective legal advocates for indigent parents in child welfare proceedings. This right is protected when a parent has a dedicated advocate knowledgeable about child welfare laws and willing to hold the state to its burden. The office's duties are to provide accountability, training, and resources, develop practice standards, and advocate for systemic and legislative changes in Colorado.

II. ORPC Authority and Responsibilities

- a. The United States Supreme Court recognized that the "Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." Troxel v. Granville, 530 U.S. 57, 66 (2000). In Colorado, an indigent respondent parent has a statutory right to appointed counsel to protect this fundamental right to parent. See § 19-3-202, C.R.S.
- b. Section 13-92-101 to 104, C.R.S. established the ORPC and vested it with statutory requirements regarding the oversight and administration of respondent parent representation in Colorado.
- c. The ORPC's enabling legislation charges and entrusts the ORPC with improving the quality of appointed legal representation for parents in dependency and neglect proceedings across Colorado through establishing equitable funding structures, creating a clear set of practice standards, and providing high quality and accessible training.

III. Authority and Requirement for Appointments through the ORPC

- a. The ORPC shall maintain and provide to the courts a list of qualified attorneys eligible for appointments as respondent parents' counsel (the "Appointment List"). In this capacity, the ORPC possesses:
 1. The exclusive authority and discretion to select and contract with attorneys to provide state-paid RPC services to parents subject to dependency and neglect proceedings;
 2. The authority to reject attorneys for any reason;
 3. The authority to terminate, at will, contracts with attorneys;
 4. The authority to select attorneys for specific cases upon notice to the court;
 5. The authority to seek termination of existing court appointments as provided by this Chief Justice Directive;
 6. The responsibility to provide oversight of and accountability for state-paid attorney services through evaluation of attorney services and receipt of complaints regarding attorneys who contract with the ORPC.
- b. The ORPC may periodically seek input from Judges and Magistrates regarding the Appointment List.
- c. The trial courts shall select attorneys for appointment from the Appointment List provided by the ORPC. It is within the ORPC's sole discretion to determine which attorneys are placed on the Appointment List.
- d. Courts shall not appoint one RPC to represent more than one respondent parent in a case. Courts shall not appoint more than one RPC to represent one respondent parent in a case without approval from the ORPC.
- e. Upon appointment of counsel from the Appointment List, court staff shall enter the appointment into the case management system. The Judicial Department's case management reporting system shall generate a daily report to be sent to the appointed attorney with the following information:

Notification that [Attorney Name] is appointed for the purpose of serving as Respondent Parent Counsel in the dependency and neglect case, [Case Number][County], pursuant to section 19-3-202, C.R.S.; and

That Representation is for [Parent's Name][D.O.B](if available) [Race/Ethnicity] (if available), Respondent Parent, who has been found indigent by the court, pursuant to section 19-3-202, C.R.S.; and

Pursuant to section 13-92-101, C.R.S., the appointment is paid for by the Office of Respondent Parents' Counsel (ORPC). All questions concerning the appointment shall be referred to the ORPC.

- f. The Judicial Department's case management reporting system shall generate a weekly RPC Appointment Report to be sent to the ORPC that contains the case number, the name of the attorney appointed, county, case type, case division, respondent name, respondent race (if available), respondent date of birth (if available), and date of entry of appointment.
- g. The ORPC will not process payment for the services of attorneys with whom the ORPC does not have a contract and who are not on the Appointment List, unless the exception discussed in paragraph h. of this section applies. If after July 1, 2016, the Court appoints an RPC who is not on the Appointment List and without approval by the ORPC, the ORPC will not compensate that attorney under any circumstance. Off-list and non-approved appointments must be paid for out of that judicial district's budget.
- h. Attorneys who choose not to apply for or renew an ORPC contract but wish to continue to represent respondent parents on cases in which they were appointed may do so on the condition that the attorney comply with this CJD, ORPC governance, and sign the Respondent Parent Payment System (RPPS) User Agreement. More specifically, this may **only** occur when (1) attorneys were appointed prior to July 1, 2016 and continue to represent clients when those cases are transferred to the ORPC's operational structure on July 1, 2016, or (2) attorneys who choose not to apply to renew a contract with the ORPC during a subsequent application period after July 1, 2016. During the course of their representation these attorneys will be allowed to seek services and resources for their current indigent respondent parents from the ORPC, but they will not be allowed to accept additional appointments.

IV. Appointments on Appeal by ORPC

- a. The ORPC shall maintain a list of appellate counsel eligible for appointments on appeal, and shall appoint appellate counsel. Trial Counsel is prohibited from filing an appeal of the case in which they were trial counsel without prior permission from the ORPC.

- b. Trial counsel **must** notify the ORPC that a respondent parent would like to appeal once the court has entered either:
 - 1. a final and appealable order at or after the dispositional hearing; or
 - 2. an order terminating parental rights;
- c. When the respondent parent does wish to appeal, trial counsel **shall complete** and submit the Appellate Transmittal Sheet to the ORPC **within seven calendar days** after an appealable order or order terminating parental rights. The Appellate Transmittal Sheet will be maintained by the ORPC. This procedure does not apply for judicial reviews of magistrate orders or interlocutory appeals, which must be completed by trial counsel. The ORPC may grant requests for appellate counsel to be appointed for judicial reviews or interlocutory appeals.
- d. If the respondent parent does not wish to appeal, trial counsel must have the respondent parent sign a written waiver of appeal **within seven calendar days** after an appealable order or termination order and submit it to the ORPC.
- e. If the attorney cannot locate a client after diligent efforts, the attorney should assess how to proceed based upon the client's last clearly articulated position. If the client previously expressed an interest in appealing, the attorney should submit the Appellate Transmittal Sheet to the ORPC **within seven calendar days** after an appealable order or termination order. If there was no discussion regarding an appeal and the client cannot be located, the attorney must provide the ORPC with an unsigned waiver of appeal noting they could not locate the client after diligent efforts **within seven calendar days** of an appealable order or termination order.
- f. Upon receipt of the Appellate Transmittal Sheet, the ORPC will select and notify the appellate counsel. Appellate counsel will file a Notice of Appeal and Designation of Record. Appellate counsel must fill out the transcript request form and submit to the managing court reporter in the judicial district where the appeal originates. The transcript request form is available at www.coloradoorpc.org.
- g. In circumstances where a trial attorney wishes to consult an appellate attorney prior to a termination hearing where an appeal will likely follow, trial counsel should contact the ORPC for consultation and potential early appointment of an appellate lawyer.
- h. Trial counsel and appellate counsel are obligated to consult about appellate issues upon receipt of the appointment notification from the ORPC.

V. Practice Guidelines, Requirements, and Continuing Education Requirements for Attorneys Eligible for Appointments

- a. Attorneys who are deemed eligible for court appointments by the ORPC are required to:
1. Possess the knowledge, expertise, and training necessary to perform the court appointment;
 2. Understand the Colorado Children’s Code, §§ 19-1-101 to 19-7-103, C.R.S. Volume 7 CDHS Rules and Regulations for Child Welfare Services, 12 Code Colo. Regs. 2509-1 – 2509-8, this Chief Justice Directive, the Indian Child Welfare Act, 25 U.S.C. §§ 1901 to 1963 and other relevant State and Federal law;
 3. Understand and comply with the ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases (Summary Attached as Attachment A);
 4. Comply with any other practice standards recommended by the ORPC;
 5. Comply with the training requirements mandated by the ORPC;
 6. Have and maintain malpractice insurance;
 7. Comply with the Colorado Rules of Professional Conduct.
- b. Failure to comply with this Directive may result in termination of any associated contract, and/or removal from existing appointments, and/or removal from the appointment list.

VI. Eligibility Requirements for Appointment of RPC

- a. The respondent parent requesting representation or appointment of counsel must be indigent to qualify for court-appointed representation at state expense pursuant to section 19-3-202, C.R.S. Such person(s) must also be indigent for the ORPC to authorize payment of certain costs and expenses. See Attachment B Procedures for the Determination of Eligibility for Appointment of Respondent Parent Counsel (RPC) in Dependency and Neglect Proceedings on the Basis of Indigence.

- b. Before an appointment may be considered, the respondent parent must complete application form JDF 208 (“Application for Public Defender, Court-Appointed Counsel, or Guardian ad litem”) and sign or testify to the form under oath.
- c. The ORPC is precluded from paying for services and any costs associated with services for non-indigent parties. A court shall not order representation to be at state expense absent a finding of indigence unless the respondent parent automatically qualifies for appointed counsel due to being held in custody.
- d. If, in the interest of justice, a tentative appointment of legal counsel for the respondent parent is necessary, such appointment may be made pending a final decision regarding indigency. If a review of a respondent parent’s application shows that the parent is not indigent and is not qualified to have court-appointed counsel at state expense, the court may order the parent to reimburse the ORPC for the representation provided from a tentative appointment of counsel.
- e. If the court determines, at any time after appointing RPC, that the respondent parent has the ability to pay all or part of the costs for representation or other costs, the court shall enter a written order that the respondent parent reimburse all or part of said costs to the ORPC. Costs for representation provided may be assessed against the respondent parent at the fixed hourly rate for state-funded private counsel or, at the state-funded counsel contract rate.
- f. An attorney appointed by the court on the basis of a person’s inability to pay the costs of the appointment shall provide timely notice to the court in the event financially related information is discovered that would reasonably call into question the person’s inability to pay such costs. Based upon a reassessment of a party’s financial circumstances, the court may terminate a state-paid appointment, require reimbursement to the ORPC of all or part of the costs incurred or to be incurred, or continue the appointment in its current pay status.

VII. Guidelines for Payment by the ORPC

- a. As of July 1, 2016, the State, through the ORPC, shall bear the costs of services of an RPC appointed pursuant to section 13-92-103, C.R.S.
- b. No claim for payment shall be submitted prior to receipt of an appointment email. Upon receipt of an appointment email from the Court, the appointed attorney shall enter the appointment in the RPPS and upload the email to the same.
- c. Claims for payment for either hourly appointments or flat-fee-contract appointments **must be made within the time frame required in the ORPC billing policies.** The ORPC may review, verify, and revise, when appropriate, authorizations for payment.

- d. Claims for payment of RPC fees and expenses shall be submitted by the RPC directly to the ORPC in accordance with ORPC Billing Policies and this CJD. Claims for payment are **only** billable to the ORPC through the RPPS.
- e. Appointments may be paid on either a flat contract fee or an hourly fee basis at the discretion of the ORPC. As of July 1, 2017, all ORPC appointments, unless otherwise determined by the ORPC, will be paid on an hourly basis. Converting a case to an hourly fee after receipt of a flat fee payment is governed by the ORPC billing policies in effect as of July 1, 2017.
- f. Requests for court costs, expert witness fees, and related expenses must be made through the RPPS. Court costs include such items as: expert witness fees and expenses, service of process, language interpreter fees, mental health examinations, transcripts, and discovery costs. Payment of all court costs shall be in accordance with applicable statutes, Chief Justice Directives/Orders, and ORPC policies. Costs incurred by RPC **must be preapproved** to be paid by the ORPC. Requests that are not preapproved will not be paid.
- g. The ORPC shall set the maximum total fees per appointment for all ORPC appointments and the procedures for approval of excess fees and expenses. Requests for excess fees must be made through the RPPS and must be approved prior to commencing work in excess of the max fee.
- h. Attorneys shall maintain records of time spent on their cases, regardless of whether the appointment is a contract appointment or an hourly appointment. These files must be made available upon request by the ORPC within seventy-two hours (three calendar days).

VIII. Duties of Judges and Magistrates

- a. Judges and Magistrates shall appoint RPC no later than the first temporary custody/shelter/initial hearing. Nothing shall preclude a court from appointing RPC prior to the filing of a petition for good cause pursuant to section 19-3-202, C.R.S.
- b. To the extent practicable, Judges and Magistrates shall have in-custody respondent parents transported to the first temporary custody/initial hearing or any contested hearing or have in-custody respondent parent(s) appear via video or telephone.
- c. Judges and Magistrates shall maintain the equitable division of cases among RPCs eligible for appointment in each district and are encouraged to have bi-annual

meetings with RPCs eligible for appointment to discuss procedures for the equitable division of cases.

- d. Judges and Magistrates may appoint RPCs from an overflow list when no other RPC on the appointment list is available. Attorneys may be on an overflow list at the discretion of the ORPC and will be designated as overflow on the appointment list. RPCs placed on the ORPC appointment list are required to be placed into the jurisdiction's pick up rotation.
- e. Judges and Magistrates shall otherwise implement procedures and practices that enable RPCs to comply with this Chief Justice Directive.
- f. **In instances where a respondent parent is pro se and informs the court she or he wishes to appeal, Judges and Magistrates shall have the ORPC notified within seven calendar days of learning that the respondent parent wishes to appeal, and will provide any available contact information for the respondent parent. The ORPC will appoint appellate counsel upon receipt of notification from the trial court.**

IX. Procedures for Complaints against RPC under contract with the ORPC in Dependency and Neglect Proceedings

- a. All written complaints and documentation of verbal complaints regarding the performance of any RPC shall be submitted to the ORPC via the online complaint process at www.coloradoorpc.org.
- b. If the complaint involves an attorney and the ORPC determines that the attorney may have violated the Colorado Rules of Professional Conduct, the information shall be filed with the Colorado Supreme Court Office of Attorney Regulation Counsel (OARC). However, ORPC may advise the person making the complaint that the complainant may contact the OARC directly if they have a complaint about an attorney. The OARC shall advise the ORPC of the final outcome of any investigation involving an attorney on the ORPC approved list if authorized to do so under applicable rules.
- c. The ORPC may investigate a complaint and take the necessary action it believes is required to resolve any concerns or issues raised by the complaint. Such action may include, but is not limited to, requiring additional training, placing the attorney on a corrective action plan, and terminating the contract with the attorney.

X. Sanctions

- a. All contracts with the ORPC for appointments addressed in this Chief Justice Directive shall include a provision requiring compliance with the Chief Justice

SUMMARY: ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases

Basic Obligations: The parent's attorney shall:

General:

- 1. Adhere to all relevant jurisdiction-specific training and mentoring requirements before accepting a court appointment to represent a parent in an abuse or neglect case.**
- 2. Acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies, and rules.**
- 3. Understand and protect the parent's rights to information and decision making while the child is in foster care.**
- 4. Actively represent a parent in the pre-petition phase of a case, if permitted within the jurisdiction.**
- 5. Avoid continuances (or reduce empty adjournments) and work to reduce delays in court proceedings unless there is a strategic benefit for the client.**
- 6. Cooperate and communicate regularly with other professionals in the case.**

Relationship with the Client:

- 7. Advocate for the client's goals and empower the client to direct the representation and make informed decisions based on thorough counsel.**
- 8. Act in accordance with the duty of loyalty owed to the client.**
- 9. Adhere to all laws and ethical obligations concerning confidentiality.**
- 10. Provide the client with contact information in writing and establish a message system that allows regular attorney-client contact.**
- 11. Meet and communicate regularly with the client well before court proceedings. Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceeding, any orders entered against the client and the potential consequences of failing to obey court orders or cooperate with service plans.**

12. **Work with the client to develop a case timeline and tickler system.**
13. **Provide the client with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule or court order.**
14. **Be alert to and avoid potential conflicts of interest that would interfere with the competent representation of the client.**
15. **Act in a culturally competent manner and with regard to the socioeconomic position of the parent throughout all aspects of representation.**
16. **Take diligent steps to locate and communicate with a missing parent and decide representation strategies based on that communication.**
17. **Be aware of the unique issues an incarcerated parent faces and provide competent representation to the incarcerated client.**
18. **Be aware of the client's mental health status and be prepared to assess whether the parent can assist with the case.**

Investigation:

19. **Conduct a thorough and independent investigation at every stage of the proceeding.**
20. **Interview the client well before each hearing, in time to use client information for the case investigation.**

Informal Discovery:

21. **Review the child welfare agency case file.**
22. **Obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and information from the caseworker and providers.**

Formal Discovery:

23. **When needed, use formal discovery methods to obtain information.**

Court Preparation:

24. **Develop a case theory and strategy to follow at hearings and negotiations.**

25. **Timely file all pleadings, motions, and briefs. Research applicable legal issues and advance legal arguments when appropriate.**
26. **Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available.**
27. **Aggressively advocate for regular visitation in a family-friendly setting.**
28. **With the client's permission, and when appropriate, engage in settlement negotiations and mediation to resolve the case.**
29. **Thoroughly prepare the client to testify at the hearing.**
30. **Identify, locate and prepare all witnesses.**
31. **Identify, secure, prepare and qualify expert witness when needed. When permissible, interview opposing counsel's experts.**

Hearings:

32. **Attend and prepare for all hearings, including pretrial conferences.**
33. **Prepare and make all appropriate motions and evidentiary objections.**
34. **Present and cross-examine witnesses, prepare and present exhibits.**
35. **In jurisdictions in which a jury trial is possible, actively participate in jury selection and drafting jury instructions.**
36. **Request closed proceedings (or a cleared courtroom) in appropriate cases.**
37. **Request the opportunity to make opening and closing arguments.**
38. **Prepare proposed findings of fact, conclusions of law and orders when they will be used in the court's decision or may otherwise benefit the client.**

Post Hearings/Appeals:

39. **Review court orders to ensure accuracy and clarity and review with client.**
40. **Take reasonable steps to ensure the client complies with court orders and to determine whether the case needs to be brought back to court.**
41. **Consider and discuss the possibility of appeal with the client.**

42. **If the client decides to appeal, timely and thoroughly file the necessary post-hearing motions and paperwork related to the appeal and closely follow the jurisdiction's Rules of Appellate Procedure.**
43. **Request an expedited appeal, when feasible, and file all necessary paperwork while the appeal is pending.**
44. **Communicate the results of the appeal and its implications to the client.**

Obligations of Attorney Managers:

Attorney Managers are urged to:

1. **Clarify attorney roles and expectations.**
2. **Determine and set reasonable caseloads for attorneys.**
3. **Advocate for competitive salaries for staff attorneys.**
4. **Develop a system for the continuity of representation.**
5. **Provide attorneys with training and education opportunities regarding the special issues that arise in the client population.**
6. **Establish a regular supervision schedule.**
7. **Create a brief and forms bank.**
8. **Ensure the office has quality technical and support staff as well as adequate equipment, library materials, and computer programs to support its operations.**
9. **Develop and follow a recruiting and hiring practice focused on hiring highly qualified candidates.**
10. **Develop and implement an attorney evaluation process.**
11. **Work actively with other stakeholders to improve the child welfare system, including court procedures.**

Role of the Court

The Court is urged to:

1. **Recognize the importance of the parent attorney's role.**
2. **Establish uniform standards of representation for parents' attorneys.**

- 3. Ensure the attorneys who are appointed to represent parents in abuse and neglect cases are qualified, well-trained, and held accountable for practice that complies with these standards.**
- 4. Ensure appointments are made when a case first comes before the court, or before the first hearing, and last until the case has been dismissed from the court's jurisdiction.**
- 5. Ensure parents' attorneys receive fair compensation.**
- 6. Ensure timely payment of fees and costs for attorneys.**
- 7. Provide interpreters, investigators and other specialists needed by the attorneys to competently represent clients. Ensure attorneys are reimbursed for supporting costs, such as use of experts, investigation services, interpreters, etc.**
- 8. Ensure that attorneys who are receiving appointments carry a reasonable caseload that would allow them to provide competent representation for each of their clients.**
- 9. Ensure all parties, including the parent's attorney, receive copies of court orders and other documentation.**
- 10. Provide contact information between clients and attorneys.**
- 11. Ensure child welfare cases are heard promptly with a view towards timely decision making and thorough review of issues.**

PROCEDURES FOR THE DETERMINATION OF ELIGIBILITY FOR COURT APPOINTED COUNSEL AND GUARDIAN *AD LITEM* REPRESENTATION ON THE BASIS OF INDIGENCE

Indigency Determination

Persons requesting court-appointed representation to be paid by the state on the basis of indigence must complete, or have completed on their behalf, application form JDF208 (“Application for Court-Appointed Counsel or Guardian *ad Litem*”) signed under oath, before such an appointment may be considered by the court. Form JDF208 must be completed for the appointment of counsel at state expense in all cases except mental health cases under Title 27 in which the respondent refuses to or is unable to supply the necessary information and where the court appoints a GAL for a judicial bypass proceeding pursuant to §12-37.5-107(2)(b).

Procedures for the Determination of Indigency

The following procedures are used for applicants in cases addressed in CJD 04-06.

- **Completion of Form JDF208 by Applicant**

Persons applying for state-paid counsel or guardian ad litem representation must complete, or have completed on their behalf, the Application for Court-Appointed Counsel, form JDF208, and submit it to the court.

- **Review of Financial Information by Court Personnel**

Court personnel shall review the applicant’s information on form JDF208 to determine whether or not the applicant is indigent on the basis of three factors:

- Income¹
- Liquid assets²
- Expenses³

Criteria for Indigency

An applicant qualifies for court appointed counsel or guardian *ad litem* on the basis of indigence if his or her financial circumstances meet either set of criteria described below.

1) **Income is at or below guidelines / Liquid assets equal \$0 to \$1,500**

- If the applicant’s income is at or below the income eligibility guidelines and he or she has liquid assets of \$1,500 or less, as determined on form JDF 208, the applicant is indigent and eligible for court appointed counsel or guardian *ad litem* representation at state expense.

¹ *Income is gross income from all members of the household who contribute monetarily to the common support of the household. Income categories include: wages, including tips, salaries, commissions, payments received as an independent contractor for labor or services, bonuses, dividends, severance pay, pensions, retirement benefits, royalties, interest/investment earnings, trust income, annuities, capital gains, Social Security Disability (SSD), Social Security Supplemental Income (SSI), Workers’ Compensation Benefits, Unemployment Benefits, and alimony. NOTE: Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the applicant’s income in a fashion which would allow the applicant proprietary rights to the roommate’s income.*

Gross income shall not include income from TANF payments, food stamps, subsidized housing assistance, veterans benefits earned from a disability, child support payments or other assistance programs.

² *Liquid assets include cash on hand or in accounts, stocks, bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the applicant’s ability to maintain home and employment.*

³ *Expenses for nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc., shall not be included. Allowable expense categories are listed on form JDF 208.*

2) **Income is up to 25% above guidelines / Liquid assets equal \$0 to \$1,500 / Monthly expenses equal or exceed monthly income**

- If the applicant's income is up to 25% above the income eligibility guidelines; the applicant has assets of \$1,500 or less; and the applicant's monthly expenses equal or exceed monthly income, as determined on form JDF 208, the applicant is indigent and eligible for court appointed counsel or guardian ad litem representation.

In cases where the criteria above are not met but extraordinary circumstances exist, the court may find the applicant indigent. In such cases, the court shall enter a written order setting forth the reasons for the finding of indigency.

INCOME ELIGIBILITY GUIDELINES				
Family Size	Monthly Income*	Monthly Income plus 25%	Yearly Income*	Yearly Income plus 25%
1	\$1,256	\$1,570	\$15,075	\$18,844
2	\$1,692	\$2,115	\$20,300	\$25,375
3	\$2,127	\$2,659	\$25,525	\$31,906
4	\$2,563	\$3,203	\$30,750	\$38,438
5	\$2,998	\$3,747	\$35,975	\$44,969
6	\$3,433	\$4,292	\$41,200	\$51,500
7	\$3,869	\$4,836	\$46,425	\$58,031
8	\$4,304	\$5,380	\$51,650	\$64,563
* 125% of poverty level as determined by the Department of Health and Human Services. For family units with more than eight members, add \$435 per month to "Monthly Income*" or \$5,225 per year to "Yearly Income*" for each additional family member.				
Source: Federal Register 82 FR 8831 (01/31/2017)				

Appeals

Tips for Advising Clients about Appeals

Under CAR 3.4 and §19-1-109, C.R.S., parents have the right to appeal at two points in a dependency or neglect case. First, they can appeal an adjudicatory order (which is not final and appealable until the entry of the dispositional order). Second, they can appeal from an order terminating parental rights.

When advising a client about their right to appeal, it is important to remember to include the following information:

- Generally, an appeal is **not** a “do-over” of the trial court case. No new evidence will be presented to the court of appeals and there will be no hearings. The case will instead be decided based on the evidence that was already presented in the trial court.
- The chances of a trial court’s order being reversed or remanded on appeal are slim.
- Even if a court’s order is reversed by the court of appeals, that does not mean a parent will immediately get their children back—it means that the case will start over in the trial court.
- The issues that the court of appeals will most likely review are legal issues preserved by objection in the trial court. The court of appeals does not make new determinations of fact.
- If the trial court’s order is affirmed on appeal, you will then have the opportunity to ask the Supreme Court to look at your case. The chances of acceptance by the Supreme Court are extremely slim as well.

It is also a good idea to give the client a deadline (perhaps 7 or 14 calendar days after the advisement) to respond to the RPC’s advisement about the appeal. If such an advisement is rendered in person, it can also be reinforced with a follow-up written communication, either via email or letter. Some appellate deadlines to keep in mind are:

- The deadline for filing the notice of appeal is 21 days from the issuance of the court’s written opinion (either disposition or termination)
- CJD 16-02 requires RPC to submit appellate transmittal forms within 7 calendar days after entry of an appealable order

Tips for Advising Clients about Appealing an APR order

Under CAR 3.4, an APR is a final and appealable order. It is up to individual clients to decide on whether they want to appeal, but RPC can help clients make an informed choice by ensuring that they at least discuss the following points.

- Generally, an appeal will take about a year and chances are low that the court of appeals will reverse or modify an APR order out of a dependency case (unless there was a legal error made by the trial court). This is especially true if the APR order was made to another parent in the case.
- An appeal is not a “do over”: parents will not get to present new evidence to the court of appeals and there will not be any hearings.
- On appeal, the court of appeals must make its decision based on the evidence presented in the trial court. All the litigation will be done in writing, and there is a chance there may be an oral argument.
- An allocation of custody or decision making in an APR order can be modified **two years** after the APR order has been certified into the DR case. The parent will not have an attorney to help them file a motion to modify, but there are pro se help centers in many courthouses around the state that will help them with the paperwork they need.
- A request for increased parenting time can be made **as soon as the APR order is certified into the DR case**. That request will be heard by a different judge.
- The ORPC will pay for parents to be represented by counsel on appeal, if they wish to pursue an appeal

Renuncia de Apelación

Yo, _____, fui asesorado por mi abogado Hermione Granger, de mi derecho de apelar el mandato judicial relacionado a:

La Adjudicación de Dependencia y Negligencia y Disposición (plan de tratamiento): o

La terminación de los derechos parentales, y

Por lo presente afirmo mi decisión de NO apelar el mandato judicial en el numero de caso:

Y

En elegir no apelar el mandato disposicional, yo entiendo que mi(s) hijo(s) son adjudicados dependiente y descuidados y que mi plan de tratamiento es un mandato judicial y que estoy obligado a cumplir con el.

O

En elegir no apelar el mandato judicial que termina la relación entre padre-hijo, yo entiendo que la relacion legal entre mis hijo(s) y yo esta permanentemente terminada y no tengo ningunos derechos con respecto a mi(s) hijo(s).

O

Yo, Hermione Granger, no he tenido éxito en mis intentos de consultar con mi cliente acerca de sus derechos de apelación y no anticipo tener contacto con mi cliente.

Y

Yo entiendo que mi abogado actual no seria el abogado a cargo de mi apelación y que seria nombrado un nuevo abogado de apelación. Mi abogado me a asesorado que estoy renunciando para siempre mis derechos de apelar el mandato judicial. Estoy tomando esta decision a sabiendas, de manera inteligente y voluntaria.

Fecha: _____ Por: _____

Fecha: _____ Por: _____

Waiver of Appeal

I, _____, was advised by my attorney Hermione Granger, of my right to appeal the Court's Order relating to the:

Adjudication of Dependency and Neglect and Disposition (treatment plan); or

Termination of Parental Rights, and

hereby affirm my decision **NOT** to appeal the Court's Order in Case Number _____.

AND

In choosing not to appeal the Dispositional Order, I understand that my child(ren) are adjudicated dependent or neglected and that my treatment plan is an Order of the Court that I am required to comply with.

OR

In choosing not to appeal the Order Terminating the Parent-Child Legal Relationship, I understand that the legal relationship between my child(ren) and I is permanently severed and I shall have no further rights with respect to my child(ren).

OR

I Hermione Granger, have been unsuccessful in my attempts to confer with my client regarding his/her right to an appeal and do not anticipate that I will have contact with my client.

AND

I understand that my current attorney would not be the attorney handling my appeal and that I would be appointed new appellate counsel. My attorney has advised me that I am forever waiving my right to appeal the Court's Order. I am making this decision knowingly, intelligently, and voluntarily.

Date: _____ By: _____

Date: _____ By: _____

DISTRICT COURT, [REDACTED], COLORADO [REDACTED]	COURT USE ONLY
Petitioner: People of the State of Colorado In the Interest of: [REDACTED] [REDACTED] and Concerning Respondents: [REDACTED] [REDACTED] Special Respondent: [REDACTED]	
Attorney for Respondent-Mother [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	Case Number: [REDACTED] Division:
AFFIDAVIT OF RESPONDENT PARENT COUNSEL REGARDING APPEAL FOR RESPONDENT MOTHER	

[REDACTED], Court Appointed Counsel for Respondent Mother [REDACTED], hereby states the following regarding a waiver of appeal for Respondent Mother after her Termination of Parental Rights Hearing:

1. A termination of parental rights hearing was held on June 29-30, 2016.
2. Respondent Mother did not appear at her termination hearing.
3. Respondent Mother's parental rights were terminated by a court order issued on November 1, 2016.
4. Counsel has made diligent efforts to contact Respondent Mother to discuss her appeal rights and the termination order.
5. Counsel attempted to contact Respondent Mother by post on 11/3/16, by her last known phone number on 11/3/16, by email on 11/4/16 and by text on 11/3/16.

6. Counsel has been unsuccessful in locating Respondent Mother to inform her of her appeal rights and to discuss the termination order.

RESPECTFULLY SUBMITTED on November 8, 2016.





Appellate Waiver Cheat Sheet

CJD 16-02 requires you to advise your clients of their right to appeal after adjudication & termination of parental rights. At these points in the case, the CJD requires one of three things to occur:

1. If your client wants to appeal, then the CJD requires submission of the appellate transmittal form to the ORPC;
2. If your client does not want to appeal, and has been fully advised of their right to appeal, then the CJD requires submission of a signed appellate waiver
3. If you cannot locate your client to advise them of their right to appeal, then the CJD requires submission of a notice of diligent search efforts, detailing the attempts you have made to find your client to advise them.



Do you file an appellate waiver with the ORPC after every final and appealable order has entered?

Advising Clients

When advising a client about their right to appeal, it is important to include the following information:

- ⇒ Generally, an appeal is not a “do-over” of the trial court case. No new evidence will be presented to the court of appeals and there will be no hearings. The case will instead be decided based on the evidence that was already presented in the trial court.
- ⇒ The chances of a trial court’s order being reversed or remanded on appeal are slim.
- ⇒ Even if a court’s order is reversed by the court of appeals, that does not mean a parent will immediately get their children back—it means that the case will start over in the trial court.
- ⇒ The issues that the court of appeals will most likely review are legal issues preserved by objection in the trial court. The court of appeals does not make new determinations of fact.
- ⇒ If the trial court’s order is affirmed on appeal, you will then have the opportunity to ask the Supreme Court to look at your case. The chances of acceptance by the Supreme Court are extremely slim as well.

It is also a good idea to give the client a deadline (perhaps 7 or 14 calendar days after the advisement) to respond to the RPC's advisement about the appeal. If such an advisement is rendered in person, it can also be reinforced with a follow-up written communication, either via email or letter. Some appellate deadlines to keep in mind are:

- ⇒ The deadline for filing the notice of appeal is 21 days from the issuance of the court's written opinion (either disposition or termination).
- ⇒ CJD 16-02 requires RPC to submit appellate transmittal forms within 7 calendar days after entry of an appealable order.

Finding Missing Clients

What must you do if your client suddenly drops off the face of the earth? Search for the missing client using one (or all) of the following approaches.

- ⇒ Mailing, e-mailing, and telephoning a client at all known addresses and telephone numbers.
- ⇒ Utilizing web search services such as Google and social networking sites like Facebook, Instagram, and Twitter to locate additional contact information.
- ⇒ Researching public records such as property, tax, voter, marriage, and court records and reviewing the client file for alternate contact information.
- ⇒ Visiting (or sending a staff member to visit) the client's home or place of employment.
- ⇒ Contacting the client's family members, co-workers, employer, or medical providers.

**Request an ORPC
investigator to locate your
client!**

Always try to collect the names, addresses, telephone numbers, and e-mail addresses of at least two emergency contacts from every client.

Ask clients for the names and numbers of the other professionals with whom your client has regular contact. (Therapists, doctors, and probation officers). Get your client's authorization and establish and maintain contact with these professionals.



Should you tell opposing counsel or the court you have lost contact with your client?

You must balance your duty of confidentiality against the competing obligation to avoid materially misleading the other side.

Links and Resources

Appellate Transmittal Form: <https://fs7.formsite.com/ORPCColorado/form16/index.html>

Complete within 7 days of appealable order being issued

ORPC Appellate Corner: <https://coloradoorpc.org/attorney-center/appellate-corner/>

ORPC Motions Bank: <https://coloradoorpc.org/attorney-center/motions-bank-3/>

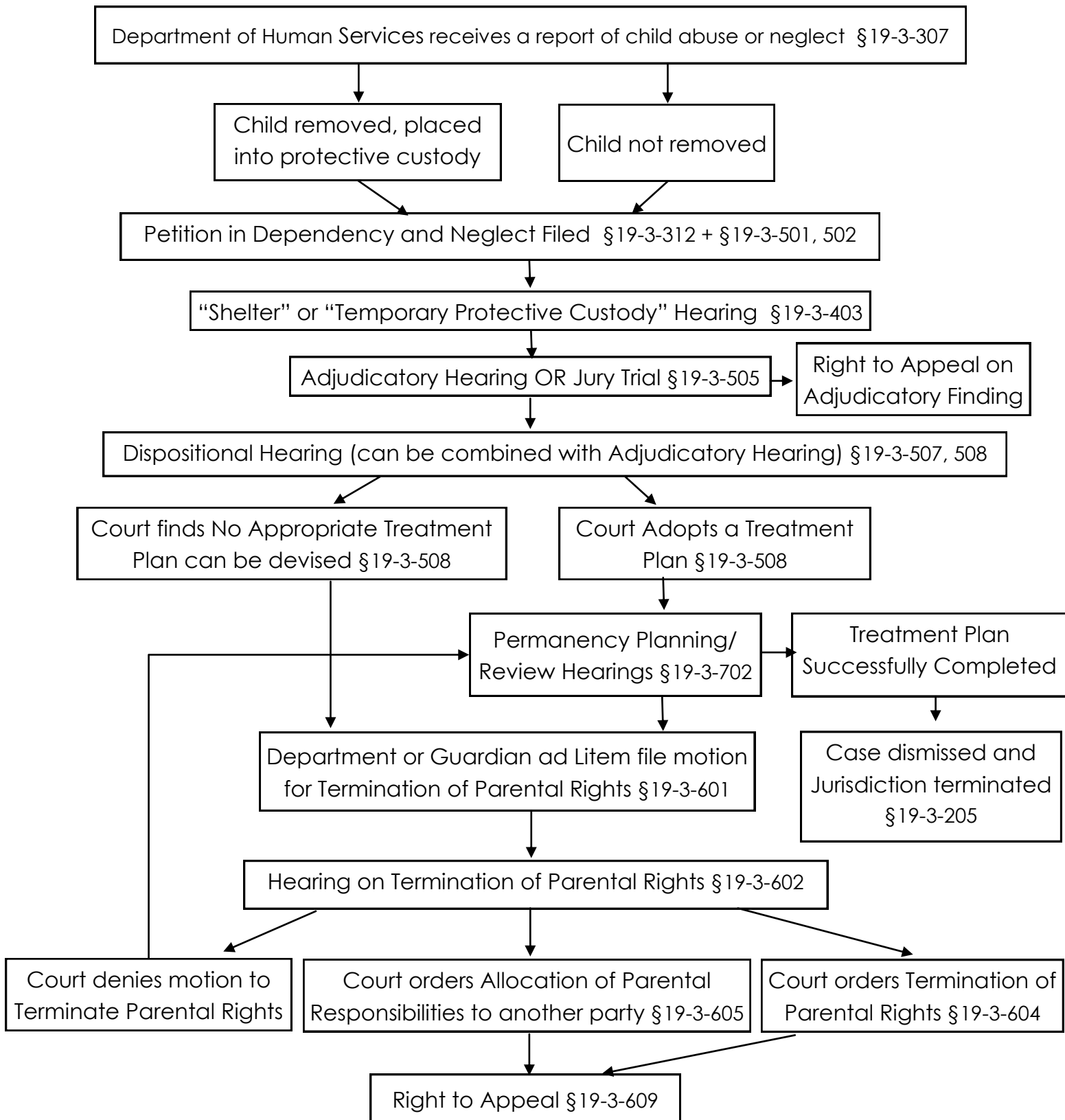
Includes sample appellate motions/briefs, such as Notice of Appeal and Designation of Record, Motion for Extension, Opening Brief, Reply Brief, and more

Questions about appeals? Ask Ruchi

D&N

Overview

COLORADO DEPENDENCY AND NEGLECT CASE FLOWCHART





Disability Screening Tool

Attorneys ask these questions of your client. It is not appropriate to simply hand them this paper and ask them to fill out, because many disabilities will preclude them from doing so.

Yes No Do you have a disability?

If Yes, ask client to explain more: _____

What accommodations has the client received in the past? _____

Yes No Do you have a hard time walking / hearing / seeing / reading etc.?

If Yes, ask client to explain more: _____

Yes No Did you ever receive extra help in school?

If Yes, ask client to explain more: _____

Yes No Did you have an IEP?

Name of school _____

Yes No Did you graduate from high school?

If not, where did you last attend _____

Why didn't you graduate? _____

Yes No Do you have a hard time learning new things?

If Yes, ask client to explain more: _____

Yes No Have you ever received social security benefits?

If Yes, ask client to explain more: _____

Yes No Do you use marijuana for a medical condition?

If Yes, ask client to explain more: _____

Yes No Do you use pain medication on a regular basis?

If Yes, ask client to explain more: _____

Yes No Have you ever had to stop working because of a medical condition?

If Yes, ask client to explain more: _____



Using the ADA in Child Welfare Cases.

Americans with Disabilities Act: *The landmark ADA, 42 U.S.C. § 10101 et seq., and its predecessor, the Rehabilitation Act of 1973, 29 U.S.C. 794, established comprehensive national mandates prohibiting discrimination on the basis of disability. Collectively, these two laws prohibit public and private entities from discriminating against people with disabilities and ensure equal opportunity to participate in and benefit from a wide range of services and programs. In light of the ADA's intended "clear and comprehensive national mandate for the elimination of discrimination," the ADA ensures the rights of people with disabilities to create and maintain families in a variety of ways. 42 U.S.C. § 12101(b)(1). Indeed, before the passage of the ADA, Congress gathered an unprecedented amount of testimony concerning discrimination against people with disabilities, including stories of people with disabilities who had lost custody of their children.*

Resources:

- DOJ Child Welfare Technical Assistance: <https://bit.ly/2Fs9gpf>
- DOJ/HHS Letter of Finding: <https://bit.ly/2HCbqc1>
- Rocking the Cradle report: <https://bit.ly/2w5rXjs>

Office of Respondent Parents' Counsel
1300 Broadway, Ste. 340
303-731-8770
ColoradoORPC.org

BACKGROUND

For years, prevailing caselaw in Colorado held a failure to comply with the ADA was not a defense to termination. Many courts across the country took the same position. In response, in 2012, the National Council on Disability issued a groundbreaking report about the rights of parents with disabilities called Rocking the Cradle. The report detailed hundreds of instances of discrimination faced by disabled parents. Following the report, the US DOJ and HHS investigated a case of discrimination in Massachusetts and found the Department of children and families had been discriminating against a developmentally disabled parent. In 2015, the Colorado Court of Appeals held the ADA applies to the provision of assessment, treatment and services. In 2018 the Children's Code was amended to require compliance with the ADA at several points of a D&N case.

The ADA defines disability as "a physical or mental impairment that substantially limits one or more major life activities." Major life activities are activities like caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and parenting. Major life activities also include the operation of major bodily functions like functions of the immune system, normal cell growth, digestive, bowel, or bladder, neurological, brain, and respiratory, circulatory, endocrine, and reproductive functions. Alcoholism and addition based upon legal drug use are considered impairments under the ADA, even if there is current use. See 42 U.S.C. § 12102 & § 12210

An "individual with a disability" under the ADA does not include a person who is currently engaged in the illegal use of drugs, when the agency acts based on the illegal drug use. However, a person is typically included in the definition of disability due to illegal drug if they have successfully completed a drug rehabilitation program or has otherwise been successfully rehabilitated and is no longer engaging in drug use, or is participating in a supervised rehabilitation program and is no longer engaging in drug use.

WHAT IS A DISABILITY

Clients may not self-identify as having a disability. Screen all clients by asking questions like:

- Do you have a disability?
- Did you ever receive extra help in school?
- Did you graduate from high school?
- Do you have a hard time learning new things?
- Have you ever received social security benefits?
- Do you have a hard time walking / hearing / seeing / reading etc.?
- Do you use marijuana for a medical condition?
- Due to pain medication on a regular basis?
- Did you have to stop working because of a medical condition?

SCREENING FOR DISABILITY

As soon as you know the client has a disability, ask them what helps remediate their disability. Remember they are experts in their own condition. Sample Accommodations:

- Increase frequency/extend length of service provision
- Links of parent with a co-parent or mentor
- Tailor parenting education to the needs of the parent
- Provide independent living skills education
- Day care services
- Give frequent reminders for appointments/services
- Parent helper/child care assistant
- Provide services at an individual's home or alternative accessible site
- Provide all information in large print, audio tape, Braille, or digital format
- Offer note-taking or transcriptions of meetings and court activities
- Family or informal support networks (church, neighbors)
- Pictorial representation or step by step task reminders
- Provide in-home parent modeling
- Assist in reading materials
- Provide interpreters
- Provide accessible transportation
- Respite care
- Aide or personal assistant
- Supported housing

ACCOMMODATIONS



The ADA defines disability as “a physical or mental impairment that substantially limits one or more major life activities.” Major life activities are activities like caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and parenting. Major life activities also include the operation of major bodily functions like functions of the immune system, normal cell growth, digestive, bowel, or bladder, neurological, brain, and respiratory, circulatory, endocrine, and reproductive functions. Alcoholism and addiction based upon legal drug use are considered impairments under the ADA, even if there is current use. *See* 42 U.S.C. § 12102 & § 12110

Current untreated illegal drug use is not a disability. However, a person is typically included in the definition of disability due to illegal drug if they have successfully completed a drug rehabilitation program or has otherwise been successfully rehabilitated and is no longer engaging in drug use or is participating in a supervised rehabilitation program and is no longer engaging in drug use.

HB18-1104 was introduced because people with disabilities continue to face unfair preconceived and unnecessary societal biases as well as antiquated attitudes regarding their ability to successfully parent their children. People with disabilities have faced these biases and attitudes in D&N proceedings. HB18-1104 was signed into law by Gov. Hickenlooper on April 25, 2018. This bill provides protections for disabled parents in D&N, guardianship, adoption, and domestic relations cases. This fact sheet will focus on the changes in D&N cases only. A new section to the Colorado Revised Statutes § 24-34-805 is added. Additionally, several sections of the Children's Code are amended. Counties must provide reasonable accommodations and modifications, courts must now make additional findings, and treatment plans should include reasonable modifications.

BACKGROUND

WHAT IS NEW HB18-1104 mandates that a parent's disability alone may not serve as a basis for denial or restriction of parenting time parental responsibilities in D&N cases except when it impacts the health or welfare of a child. Additionally, a prospective parent or guardian's disability alone may not serve as a basis for denial of temporary custody except when it impacts the health or welfare of the child.

The new law adopts the definition of disability as used in the Americans with Disabilities Act. *See* 42 U.S.C. § 12102, 42 U.S.C. § 12210, 28 C.F.R. § 35.108. The law also adopts the definitions of reasonable modifications in the ADA. *See* 28 C.F.R. § 35.130.

Reasonable efforts for disabled parents includes the provision of services pursuant to the new § 24-34-805(2), C.R.S.

Services counties are required to provide pursuant to § 19-3-208, C.R.S. Include the provision of reasonable modifications.

When a respondent parent's disability is alleged to impact the health or welfare of a child courts are required to make findings whether reasonable accommodations and modifications were provided to avoid nonemergency removal based on disability.

REQUIRED FINDINGS

When reasonable modifications are necessary to complete treatment plan components, those modifications shall be listed in the report prepared for the dispositional hearing.

When a court finds there is no appropriate treatment plan and terminates parental rights based on emotional illness, behavioral or mental health disorder or intellectual and developmental disability of the parent, courts shall make findings that the provision of reasonable modifications will not remediate the impact of the parent's disability on the child's health and safety.

REASONABLE MODIFICATIONS Reasonable modifications are changes to policies, practices, or procedures that are necessary to avoid discrimination based on disability. These are services that allow disabled parent in equal opportunity to succeed with their treatment plan as a nondisabled parent. Some sample modifications include:

- Increase frequency/extend length of services
- Extend EPP guidelines
- Tailor parenting education to the needs of the parent
- Provide independent living skills education
- Protective day care services
- Give frequent reminders for appointments/services
- Parent helper/child care assistant
- Provide services at an individual's home or alternative accessible site
- Provide all information in large print, audio tape, Braille, or digital format
- Offer note-taking or transcriptions of meetings and court activities
- Family or informal support networks (church, neighbors)
- Pictorial representation or step by step task reminders
- Provide in-home parent coaching
- Assist in reading materials
- Provide interpreters
- Provide accessible transportation
- Respite care
- Aide or personal assistant
- Supported housing

See also Motions Bank Resources on Americans with Disabilities Act, including:

- Colorado Disability Resources (55-page guide to ADA resources)
- Motions to Modify Treatment Plan, for ADA Accommodations, and for Finding of No Reasonable Efforts
- Motion for New Trial
- HB 18-1104
- ADA and Child Welfare Technical Assistance

<https://coloradorpc.org/attorney-center/motions-bank-3/>

Finding Missing Clients

Tips for finding missing clients

What must you do if your client suddenly drops off the face of the earth?

Search for the missing client using one of (or all) of the following approaches:

- Mailing, e-mailing and telephoning a client at all known addresses and telephone numbers.
- Utilizing web search services such as Google and social networking sites to locate additional contact information.
- Researching public records such as property, tax, voter, marriage and court records and reviewing the client file for alternate contact information.
- Visiting (or sending a staff member to visit) the client's home or place of employment.
- Contacting the client's family members, co-workers, employer or medical providers.

Always try collect the names, addresses, telephone numbers, and e-mail addresses of at least two emergency contacts from every client.

Ask clients for the names and numbers of the other professionals with whom your client has regular contact. (Therapists, doctors, and probation officers.) Get your client's authorization to establish and maintain contact with these professionals.

Should you tell opposing counsel you have lost contact with your client? There is no easy answer. You must balance your duty of confidentiality against the competing obligation to avoid materially misleading the other side. "Similarly, the lawyer would likely have an obligation to reveal the fact a client is missing if the lawyer believes that opposing party is or may be relying on his previous incorrect assertions or assertions that are no longer true."

To search for incarcerated clients:

Colorado Department of Corrections

The locations of all inmates and Department of Corrections facilities can be found at this link.

<http://www.doc.state.co.us/oss/>

Vinelink

Vine link allows users to search for inmates at a number of city and county facilities in Colorado. If the client is located in a facility that's online link you can also sign up for an alert to tell you when the client is released or is moved. You can also use violence to search for incarcerated clients in other states as well.

<https://www.vinelink.com/#/home/site/6000>

Jails not included in Vine

Some counties are not on Vine, and require searches on those county sites. Those counties include:

Arapahoe

<http://www.arapahoegov.com/index.aspx?NID=1175>

El Paso

<https://www.epcsheriffsoffice.com/inmate-search#!/search>

Jefferson

<http://jeffco.us/wil/>

Federal facilities

You can search all the Bureau of Prison facilities with one search

<https://www.bop.gov/inmateloc/>

Inmate Search Sites

Colorado Department of Corrections: www.doc.state.co.us/oss/

County Jails:

Colorado (and other states): www.vinelink.com/#/home/site/6000

(NOTE: not all facilities are included in this database)

Arapahoe County: <http://www.co.arapahoe.co.us/1175/Inmate-Charges-and-Bonds>

El Paso County: <https://www.epcsheriffsoffice.com/inmate-search#!/search>

Jefferson County: <https://inmatelookup.jeffco.us/inmate>

Federal Bureau of Prisons: www.bop.gov/inmateloc/

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RESPONSIBILITIES OF RESPONDENT
PARENTS' ATTORNEYS IN DEPENDENCY
AND NEGLECT PROCEEDINGS

*Adopted October 14, 2006
Modified June 19, 2010*

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This opinion addresses attorneys' ethical responsibilities to clients in the dependency and neglect¹ and other juvenile arenas. Many of these attorneys are appointed attorneys, paid by the state, representing unsophisticated clients, and facing unusual challenges. Although it is clear that the Rules of Professional Conduct apply to respondent parents' attorneys, the Committee addresses the application of those rules to recurring dependency and neglect issues.

Issues

1. How does an appointed attorney pursue the client's objectives when the client fails to attend court hearings and provide direction to the attorney?
2. May an attorney provide a written statement advising the client that presentation of evidence is conditioned on the client's continued communication with the attorney and attendance at court hearings?
3. May the attorney stipulate to offers of proof or otherwise bind the client in the client's absence?
4. In a Title 19 dependency and neglect matter, is the respondent parent's attorney required to file a notice of appeal if an appeal under C.A.R. 3.4 is groundless or frivolous?

Summary of Opinion

Court-appointed attorneys must assure that there is a written communication to each new client that the attorney has been appointed to provide representation without cost to the client.

The attorney should communicate in writing the nature of the representation. That writing may outline what happens if the client doesn't come to court and doesn't communicate with the attorney. However, the attorney may not decline to advocate for the client simply because the client does not come to hearings or provide direction.

The attorney may agree to, or not object to, presentation of evidence by offers of proof if the client does not attend a hearing.

The attorney must file a notice of appeal from termination of parental rights upon request of the client even if the attorney believes the merits of the appeal are groundless or frivolous.

Analysis

There is no bright line in attorney-client representation that delineates how an attorney must represent his or her client at hearings or at trials. Each representation is different depending on the agreement of the client and attorney, or if there is no formal agreement, by the disclosure by the attorney to the client as to how the attorney will provide representation. Generally, the client determines trial scope and objectives.² With a few exceptions, the attorney decides the tactics of hearings and trials.³

Colorado Rule of Professional Conduct (Colo. RPC) 1.5(b) requires that the basis of the fee agreement shall be communicated to the client before commencing or within a reasonable time of commencing the representation. The writing need not be formal and need not be signed by the client.⁴ There is nothing in the rule or its comments that excludes from this requirement either a *pro bono* fee agreement or payment by the state or other third party on behalf of the client.⁵ In fact, the client with an appointed attorney must agree, after consultation, to the attorney being paid by the state,⁶ though the circumstances of the unique court-appointed, third-party-paid representation generally assure the client's implicit agreement.⁷

Pursuing the Objectives of an Uncooperative Client

Unsophisticated clients, especially clients with appointed attorneys, may easily misunderstand the nature of the relationship and the nature of the fee. A writing early in an attorney-client relationship must at least briefly communicate the nature of the fee,⁸ but also may present to the attorney the opportunity to detail the nature of the representation, and give the client something to refresh his or her memory at a later time.⁹ When an attorney is appointed, there may not be a meeting of minds as to the client's expectations of the attorney. The client may have unreasonable expectations of the attorney.

One method to present the required writing, for attorneys who regularly take court appointments, may be to present to the client a standard form, which may be modified as necessary, and may be presented to the client at the time of appointment. Often, clients of attorneys practicing in these areas of the law are transient and difficult to reach. An immediate writing can outline for the remainder of the case what happens if the client doesn't come to court and doesn't communicate. The writing may state that, should the attorney not be in contact with the client, the attorney will follow the client's most recent instructions, or alternately may state that the attorney will use his or her best judgment in making decisions for the client.

In creating a standard or individual writing, appointed attorneys should remember that to a certain extent the nature of this unusual attorney-client relationship is fixed. Clients with appointed attorneys cannot initially negotiate the terms of the representation prior to selecting an attorney, nor in any case choose whom to select and, thus, the attorney may not unreasonably limit the terms of the representation. For instance, while Colo. RPC 1.2(c) allows an attorney to limit the scope or objectives of the representation with the client's consent after consultation, because the client with an appointed attorney cannot negotiate at arms length, it would be an unusual circumstance when the attorney could limit the general nature of the defense, no matter how repugnant the nature of the defense to the appointed attorney,¹⁰ or limit a client's unreasonable desire to reach a certain goal.¹¹

Even if the respondent parent does not attend court hearings or provide direction to the attorney beyond that originally discussed, the attorney has a continuing ethical obligation to provide competent

representation.¹² In providing representation, the attorney may present witnesses on behalf of his or her client and vigorously cross-examine witnesses presented by the county department of social services.

Client Communication and Attendance at Hearings

An attorney may not decline to advocate on behalf of the client simply because the client does not attend court hearings or provide direction to the attorney.¹³ An attorney must still exercise professional judgment as to how to advocate for the client's best interests. To avoid making such decisions without input from the client, an attorney may, at the outset of the representation, advise the client that he or she will exercise his or her independent professional judgment in determining an appropriate trial strategy if the client does not maintain communication with the attorney or attend court hearings.¹⁴

Stipulation to Offers of Proof

The attorney may agree to, or not object to, the presentation of evidence by offers of proof¹⁵ if the client is not present at court, even if the attorney has no recent or unambiguous directions from the client. The Comment to Colo. RPC 1.2. clarifies that in questions of means, the lawyer should assume responsibility for technical and legal tactical issues. Agreement to offers of proof is similar to other trial tactics that are within the ambit of attorney choices,¹⁶ and does not rise to the level of attorney interference with the objectives of the case.¹⁷

Lawyer's Obligation to Pursue Appeal

When a respondent parent in a dependency and neglect proceeding requests his or her court-appointed lawyer to appeal a judgment terminating the client's parental rights, the lawyer must file a timely notice of appeal. Colo. RPC 1.2(a) provides that a lawyer shall abide by a client's decisions concerning the scope and objectives of representation subject to specified exceptions. While Colo. RPC 3.1 says "a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law", the Colorado Supreme Court has determined that in a dependency and neglect respondent's appeal, "[s]o long as the [court-appointed] attorney does not misstate the facts or controlling law, she is free to present her client's arguments to the court as well as her client's desire to prevail."¹⁸ Accordingly, the Supreme Court has concluded that in appealing a judgment terminating the client's parental rights, the appointed lawyer does not have an ethical dilemma as to whether the appeal might be frivolous.

In dependency and neglect proceedings, as in other areas of practice, a lawyer must provide competent representation to a client.¹⁹ When an appointed lawyer represents an indigent parent in a dependency and neglect proceeding, the lawyer may be subject to claims of ineffective assistance of counsel based on *Strickland v. Washington*.²⁰ Under *Strickland*, a respondent parent must show that the lawyer's representation fell below an objective standard of reasonableness and that the lawyer's deficient performance prejudiced the parent.

In *Roe v. Flores-Ortega*, the United States Supreme Court held that *Strickland* applies to claims of ineffective assistance of appellate counsel, and that the defendant need not show a likelihood of success on appeal.²¹ The Court characterized filing a notice of appeal as a purely ministerial task, and held that the failure to file a notice of appeal reflects inattention to the defendant's wishes and gives rise to a claim of ineffective assistance of counsel.²²

Thus, the Committee concludes that when a lawyer is requested to file an appeal of a judgment terminating parental rights, he or she must do so, without regard to the likelihood of success on appeal. This is consistent with a lawyer's duty to abide by a client's decisions concerning the scope and objectives of representation under Colo. RPC 1.2.

Nevertheless, nothing in Colo. RPC 1.2 prevents the lawyer from discussing with the client the merits and likely success of pursuing an appeal. Colo. RPC 1.2(c) provides that a lawyer may limit the scope or objectives of representation if the client consents after consultation. Thus, if a client explicitly tells the lawyer he or she does not wish to appeal, the client could not later complain that the lawyer provided ineffective assistance by not filing a notice of appeal. Additionally, if, after consultation with the lawyer, a client consents to a determination not to appeal, the lawyer would not be required to file a notice of appeal.

However, assuming that after consultation with the lawyer, the client determines that an appeal should be filed, the lawyer has an ethical obligation to do so. This is particularly so because of the short timelines under C.A.R. 3.4(b)(1), which provide that a notice of appeal must be filed within twenty-one days after the entry of an order terminating parental rights.²³

NOTES

1. This opinion applies equally to the ethical obligations of attorneys for dependency and neglect respondents other than natural parents, *e.g.*, grandparents who are legal guardians. The opinion may provide guidance for attorneys representing special respondents in dependency and neglect proceedings.
2. Colo. RPC 1.2. (A lawyer shall abide by client's decisions concerning the scope and objectives of representation, subject to paragraphs (c), (d), and (e).)
3. *Id.* at Comment (in questions of means, the lawyer should assume responsibility for technical and legal tactical issues); *People v. Schultheis*, 638 P.2d 8, 12 (Colo. 1981) (the decisions on what witnesses to call, whether and how to conduct cross-examination, what jurors to accept or strike, what trial motions should be made, and all other strategic and tactical decisions are the exclusive province of the lawyer after consultation with the client).
4. *Id.*
5. Attorney/respondent representing juvenile under prepaid legal plan failed to send Rule 1.5(b) fee writing (in part), *Matters Resulting in Diversion and Private Admonition*, 35 *The Colorado Lawyer* 155 (Jan. 2006).
6. Colo. RPC 1.8(f) (if an attorney is paid by a third party, the client must consent, there must be no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship, and the attorney may not reveal confidences to the third party).
7. If, upon appointment, the attorney is aware that the court provided to the client a document that adequately communicates the basis or rate of the fee, the attorney's obligation under Colo. RPC 1.5(b) is satisfied.
8. *See* Colo. RPC 1.5(b) and Colo. RPC 1.4; Comment, Paragraph 4 as to fees. (It is strongly recommended that all these communications be in writing.)
9. Many indigent clients do not have a high level of education and may have trouble reading or understanding the writing. Appointed attorneys should offer to read the writing if there is any question.

10. *But see* Colo. RPC 6.2(c) (accepting court appointments.) It is implicit in Colo. RPC 1.7(b) that the attorney has the option of refusing the entire appointment or moving to withdraw. Colo. RPC 1.16 allows the attorney to withdraw for other reasons.

11. An attorney's violation of Colo. RPC 1.2 by refusing to seek the client's objectives is different from an attorney refusing to present perjured witness testimony at trial. *See Schultheis, supra* note 3.

12. *See* Colo. RPC 1.1.

13. *See* Colo. RPC 1.2 (a lawyer shall abide by client's decisions concerning the scope and objectives of representation, subject to paragraphs (c), (d), and (e)); Colo. RPC 1.1 (a lawyer shall provide competent representation to a client).

14. Colo. RPC 1.2 Comment (in questions of means, the lawyer should assume responsibility for technical and legal tactical issues); *Schultheis, supra* note 3 (the decisions on what witnesses to call, whether and how to conduct cross-examination, what jurors to accept or strike, what trial motions should be made, and all other strategic and tactical decisions are the exclusive province of the lawyer after consultation with the client).

15. The Children's Code at § 19-1-106(2) says, in part: "Hearings may be conducted in an informal manner." Many Colorado jurisdictions use informal offers of proof to expedite proceedings. These offers of proof are not the offers of proof described in Colorado Rule of Evidence 103(a)(2). The attorney should make clear he or she is not stipulating to the truth of the other parties' offers of proof, and should reserve, if possible, the right to cross-examine the person on whose behalf the offer is made.

16. *See Schleiger v. Schleiger*, 137 Colo. 279, 324 P.2d 370, 373 (1958) (holding that it was within the scope of trial counsel's employment to try the case as his best judgment dictated, and his client is bound by the course of procedure adopted in the trial of the case); *Wilson v. Calder*, 518 P.2d 952, 954 (Colo. App. 1973) (holding that the choice of litigation procedures lies within the scope of an attorney's implied authority, and with regard to such matters the client is bound by the attorney's actions); *Davis v. People*, 871 P.2d 769, 773 (Colo. 1994) (trial counsel must exercise reasonable professional judgment in determining, among other things, trial strategy, including whether to interview witnesses or to rely on other sources of information, or whether to call a particular witness); *People v. Smith*, 77 P.3d 751, 758 (Colo.App. 2003) (the court further advised defendant that he controlled whether to have a trial, whether to plead guilty, and whether to testify; defendant also was advised by the trial court that defense counsel controlled trial strategy and that a disagreement over applicable law was not grounds to dismiss counsel); *People v. Outlaw*, 998 P.2d 20, 25 (Colo.App. 1999) (court observed that substitution of counsel would not solve defendant's dissatisfaction with the rule that an attorney, and not a defendant, determines motion and trial strategy); *People v. Apodaca*, 998 P.2d 25, 29 (Colo.App. 1999) (whether to call a particular witness is a tactical decision within the discretion of trial counsel; further, an attorney's decision not to interview certain witnesses, if made in the exercise of reasonable professional judgment, does not amount to ineffective assistance); *People v. Sparks*, 914 P.2d 544, 548 (Colo. App. 1996) (when and whether trial counsel objects during the trial are matters of trial strategy and technique); ABA *Standards for Criminal Justice*, The Defense Function, provide that defense counsel determines trial strategy and tactical matters. *Standard 4-5.2(b)* states:

The decision on what witnesses to call, whether and how to conduct cross-examination, what jurors to accept or strike, what trial motions should be made, and all other strategic and tactical decisions are the exclusive province of the lawyer after consultation with the client.

17. *Cf. People v. Silvola*, 915 P.2d 1281 (Colo. 1996) (attorney filed counter-claim without knowledge of or meeting with client); *Jones v. Feiger, Collison & Kilmer*, 903 P.2d 27 (Colo.App. 1994), reversed on other grounds, 926 P.2d 1244 (Colo. 1996) (client has the right to reject settlement).

18. *People in the Interest of C.Z.*, 226 P.3d 1054, 1060 (Colo. 2010). Subsequent to the original adoption date of this Ethics Opinion 114, in October 2006, the Colorado Supreme Court, in *C.Z.*, disapproved of this Committee’s conclusion that after filing a notice of appeal, a respondent’s appointed lawyer could move to withdraw if the lawyer determined that a parent’s claims on appeal lacked merit. The Court noted that in *Anders v. California*, 386 U.S. 738 (1967), the United States Supreme Court approved a procedure for lawyers who found no merit in their client’s appeal: to file an “*Anders* brief” detailing why there was no appeal issue. But in *C.Z.*, the Colorado Supreme Court determined that the *Anders* brief procedure is neither binding nor appropriate for Colorado dependency and neglect appeals:

If an attorney cannot discern a meritorious legal argument in support of her client’s appeal, she must present those issues her client wishes to be addressed. Where neither law nor facts can be framed in support of an indigent client, a court-appointed attorney’s obligation as a zealous advocate is fulfilled by accurately describing the facts of the case, locating and applying controlling law, and presenting the issues her client wishes to be considered.

226 P.3d at 1061.

19. *See* Colo. RPC 1.1.

20. *Strickland v. Washington*, 466 U.S. 668 (1984). *See* *C.Z.*, 226 P.3d at 1063 (“Thus, the obligation of court-appointed attorneys to advocate for indigent parents in termination proceedings is no different from the obligation imposed on counsel appointed to represent criminal defendants on appeal.”); *People in Interest of V.M.R.*, 768 P.2d 1268, 1270 (Colo. App. 1989). (“[I]n such cases, a contention of ineffective assistance of counsel requires a determination whether counsel’s conduct so undermined the proper functions of the adversarial process that the proceeding cannot be relied on as having produced a just result.”)

21. *Roe v. Flores-Ortega*, 528 U.S. 470 (2000); *see* *People v. Long*, 126 P.3d 284 (Colo.App. 2005).

22. *528 U.S. at 477.*

23. After *C.Z.*, it is not clear whether a retained – as opposed to court-appointed – lawyer in a dependency and neglect case has an equivalent duty to file a notice of appeal at his or her client’s request without regard to the merits of the appeal.

Resources



OFFICE OF RESPONDENT
PARENTS' COUNSEL
Protecting the Fundamental Right to Parent

ORPC Staff Directory

Name	Title	Contact
Ashlee Arcilla	Deputy Director	(303) 731-8746 arcilla@coloradorpc.org
Sheree Coates	Attorney Payment Specialist	(303) 731-8748 payments@coloradorpc.org
Jill Cohen	Social Worker—Director of Programs	(303) 731-8750 jcohen@coloradorpc.org
Landry de Souza	Accountant	(720) 316-7011 ldesouza@coloradorpc.org
Linda Edwards	Chief Financial Officer	(303) 731-8772 ledwards@coloradorpc.org
Jena Fleiner	Administrative Specialist	(720) 776-0430 admin@coloradorpc.org
Shawna Mackey Geiger	Director of Engagement	(303) 731-8771 sgeiger@coloradorpc.org
Mario Gjurekovec	IT and Administrative Specialist	(303) 731-8773 mgiurekovec@coloradorpc.org
Melanie Jordan	Case Strategy Director	(720) 689-8022 mjordan@coloradorpc.org
Ruchi Kapoor	Appellate Director	(303) 731-8759 rkapoor@coloradorpc.org
Malia Reddick	Program Analyst	(720) 689-8019 mreddick@coloradorpc.org
Melissa Michaelis Thompson	Executive Director	(303) 731-8744 mthompson@coloradorpc.org
Christy Van Gaasbeek	Training Director	(720) 388-8616 cvangaasbeek@coloradorpc.org

ORPC RESOURCES

LEGAL SUPPORT

- ◇ Appellate Support
- ◇ Billing Help
- ◇ Case Consults
- ◇ Docket Search
- ◇ Easy Access to Interpreters (including Telelanguage)
- ◇ GRID Books
- ◇ Jury Trial Assistance for New RPCs
- ◇ Jurisdiction Specific Guidance
- ◇ Motions Writing Assistance
- ◇ Access to Social Workers, Investigators, and Expert Witnesses (ADA, Immigration, etc.)
- ◇ Transcripts

WWW.COLORADOORPC.ORG

OUR MISSION

THE ORPC'S MISSION IS TO PROTECT THE FUNDAMENTAL RIGHT TO PARENT BY PROVIDING EFFECTIVE LEGAL ADVOCATES FOR INDIGENT PARENTS IN CHILD WELFARE PROCEEDINGS. THIS RIGHT IS PROTECTED WHEN A PARENT HAS A DEDICATED ADVOCATE, KNOWLEDGEABLE ABOUT CHILD WELFARE LAWS AND WILLING TO HOLD THE STATE TO THEIR BURDEN. OUR DUTIES ARE TO PROVIDE TRAINING AND RESOURCES, DEVELOP PRACTICE STANDARDS, AND ADVOCATE FOR SYSTEMIC AND LEGISLATIVE CHANGES IN COLORADO.



EXCLUSIVE ACCESS

- ◇ **Case Law Updates**
- ◇ **Curated resources and information**
- ◇ **Current trends in family defense**
- ◇ **Motions Bank**
- ◇ **Parent resource guide**
- ◇ **Training videos, webinars, and more!**

TRAINING & COMMUNITY

- ◇ **Access to National Family Defense Experts**
- ◇ **Annual Fall Conference**
- ◇ **Colorado Specific Training**
- ◇ **National Events & Conferences**
- ◇ **Networking Opportunities**
- ◇ **A Strong Support System of Family Defenders**

DATABASES & SUBSCRIPTIONS

- ◇ **The Chronicle of Social Change**
- ◇ **Colorado State Court Data Access**
- ◇ **Internal Data Resources**
- ◇ **ORPC Community Listservs**
- ◇ **Westlaw**

WWW.COLORADOORPC.ORG

WHO DO I CONTACT?

- **For advice on a case**
Melanie Jordan
mjordan@coloradoorpc.org
- **For motion writing advice**
Ruchi Kapoor
rkapoor@coloradoorpc.org
- **For social workers**
Jill Cohen
jcohen@coloradoorpc.org
- **For billing help**
Sheree Coates
payments@coloradoorpc.org
- **For IT support**
Mario Gjurekovec
mgjurekovec@coloradoorpc.org

THE COLORADO OFFICE OF RESPONDENT PARENTS' COUNSEL

**1300 BROADWAY, SUITE 340
DENVER, CO 80203**

303.731.8770



Setting Up and Using Your ORPC Westlaw Account

Fill Out Westlaw Schedule C (Included in this Handbook)

Send Schedule C to Steph Lee at Stephlee1@tr.com

Questions about setting up your account? Contact Mario

Questions about how to use Westlaw?

Check: <https://legal.thomsonreuters.com/en/support/westlaw-edge>

Contact our Westlaw Client Representative, Tina Tierney, at
tina.tierney@thomsonreuters.com

Schedule C to General Terms and Conditions Thomson Reuters Legal Products and Services

User Agreement

THIS Schedule C to General Terms and Conditions User Agreement (“User Agreement”) is entered into among, State of Colorado, Office of the Respondent Parents’ Counsel (“you”, “your”, or “Subscriber”), _____ (“User”) and West Publishing Corporation (“we”, “our”, or “West”) as follows:

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 - b. Software product licenses include updates (bug fixes, patches, maintenance releases) but do not include upgrades (releases or versions that include new features or additional functionality). User may use our software product in object code only. User may make copies of our software product for backup and archival purposes. No other copying or reproduction is allowed. User may not modify, translate or create derivative works of our software products.
 - c. If your content is hosted in our system through a West product covered under this Schedule C, you grant User the right to access and use your uploaded content and documents stored in our hosted environment.
4. **License Restrictions.**
 - a. **Usage Restrictions.** User may not store, sell, sublicense, distribute, display or transfer the products in bulk or in any way that could be used to replace or substitute for our products or services in whole or in part or as a component of any material offered for sale, license, or distribution to third parties.
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5. **Regulated Data.** Due to the regulated or private nature of some data in our information products such as credit header data, motor vehicle data, driver license data and voter registration data, User may need to complete a credentialing process which will include certifying what User’s legally permissible use of the data will be. User agrees to immediately notify us if any of the information User provided in this User Agreement or during the credentialing process changes. User agrees and warrants that you and User are the end users of this data and that you and User will only use it for internal business purposes. User also warrants that the access, use and distribution of this data to will be strictly limited to uses permitted under applicable laws, rules and regulations and as permitted by the third party additional terms. User will keep the data confidential. User will use industry standard administrative, physical and technical safeguards to protect the data. User will not disclose it to anyone except as necessary to carry out your permissible use. User will immediately report any misuse, abuse or compromise of the data. User agrees to cooperate with any resulting inquiry. If we reasonably believe that the data has been misused, abused or compromised, we may block access without additional notice.
6. **Third Party Providers.** Our products may include data and/or software from third parties. Some third party providers require us to pass additional terms through to User. The third party providers change their additional terms occasionally and new third party providers are added from time to time. To see the current third party additional terms for Westlaw and CLEAR information products go to <http://legalsolutions.com/westlaw-additional-terms> and <http://legalsolutions.com/clear-additional-terms>.
7. **Privacy.** The parties will at all times process personally identifiable information (PII) you provide to us in accordance with applicable law. You and User confirm that you and User will only upload or disclose PII as permitted by applicable law. The parties will use reasonable efforts to assist one another in relation to the investigation and remedy of any claim, allegation, action, suit, proceeding or litigation with respect to alleged unauthorized access, use, processing, or disclosure of PII. Each party will maintain, and will require any third party data processors to maintain, appropriate physical, technical and organizational measures to protect the PII against accidental, unauthorized or unlawful destruction, loss, alteration, disclosure, or access. PII includes any information relating to an identified natural person or a natural person who can be identified directly or indirectly by means reasonably likely to be used by the controller of the information, or any other natural or legal person.
8. **Responsibility for User.** You are responsible for User’s access to and use of the products/services, including without limitation, User’s misconduct, negligence, breach of any governing documents, breach of any applicable laws, rules, or regulations and any related charges. You are responsible for all damages caused by misuse, abuse or compromise of the data by User, you, your employees and any person or entity with which you shared the data. We will be responsible for damages caused by us.
9. **Term and Termination.** This User Agreement will become effective when signed by User and you, and will continue in force until terminated by any party upon at least 30 days prior written notice to the other parties. Any party may terminate this User Agreement immediately upon giving written notice of termination to the other parties if any other party commits a material breach. This User Agreement will terminate automatically upon termination or

expiration of the Subscriber's ordering document and/or the General Terms and Conditions.

- 10. **Effect of Agreement.** We may amend the terms and conditions of this User Agreement by giving you and User at least 30 days prior written notice.

- 11. **Notices.** Except as otherwise provided herein, all notices must be in writing to West at 610 Opperman Drive, P.O. Box 64833, St. Paul, Minnesota 55164-1803, Attention: Customer Service, and to you and User at the addresses below.

OFFICE OF THE RESPONDENT PARENTS' COUNSEL

Firm Name Office of Respondent Parents' Counsel
Signature *Melissa Michael Thompson*
Name (please print) Melissa M. Thompson
Title Executive Director
Date 12/02/17
Address 1300 Broadway Ste 340 Denver, CO 80203

USER

Signature _____
Name (please print) _____
Title _____
Date _____
Firm Name _____
Address _____
Contact _____
Telephone _____

West Product(s): _____

State Court Data Access

Visit: <https://www.ibits.courts.state.co.us/pas/pubaccess/>

Click "Request Government Account"

Colorado State Courts – Data Access

Username/Email:

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Request Government Agency Account

Account Information	Password/Security Question	Contact Information
<p>* Indicates required field</p> <p>*Username = Email Address</p> <input type="text"/>	<p>*Password</p> <input type="password"/> <p>Requirements:</p> <ul style="list-style-type: none">• 1 Uppercase Letter• 1 Lowercase Letter• 1 Number• 8 - 50 Characters <p>*Confirm Password</p> <input type="password"/>	<p>*Phone Primary</p> <input type="text"/> Home ▾
<p>*First Name</p> <input type="text"/>	<p>*Security Question</p> <input type="text"/> What is the name of your favorite actor? ▾	<p>Phone Alternate</p> <input type="text"/> Home ▾
<p>Middle Name</p> <input type="text"/>	<p>*Answer</p> <input type="text"/>	<p>*Address (apt, suite, etc)</p> <input type="text"/>
<p>*Last Name</p> <input type="text"/>	<p><input type="checkbox"/> I'm not a robot</p>	<p>*City</p> <input type="text"/>
<p>*Agency Name</p> <input type="text"/>		<p>*State</p> <input type="text"/> Colorado ▾
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Questions? Contact Mario

Other Helpful Websites

Docket Search: <https://www.courts.state.co.us/dockets/>

Check dockets by county, courtroom, party, attorney, date, case number

ORPC Website: <https://coloradorpc.org/>

Attorney Center: <https://coloradorpc.org/attorney-center/>

Motions Bank: <https://coloradorpc.org/attorney-center/motions-bank-3/>

Need help drafting? Contact Ruchi or Melanie

Training and Events: <https://coloradorpc.org/training-and-events/>

Questions about upcoming trainings? Contact Christy

NOTE: For access to some materials on the website, you will need an account. If you are a contractor, you should already have gotten one with your onboarding email; if you do not have an account and need one, **contact Mario**

RPPS: <https://rpps.coloradorpc.org/frmLoginScreen.aspx?ReturnUrl=%2f>

Enter your billing and request social workers, experts, investigators, and interpreters

Need an account? Contact Mario

Questions about billing? Review the ORPC's Billing Policies, RPPS User's Manual, and Billing webinar at <https://coloradorpc.org/attorney-center/contractor-support/>

If you still don't know the answer to your question, contact Sheree

Questions about requesting a social worker, expert, investigator, or interpreter?
Contact Jill

Guided Reference in Dependency and Neglect (GRID): <http://www.coloradogrid.org/>

Chronicle of Social Change: <https://chronicleofsocialchange.org/>

Need a subscription? Contact Melissa

Interpreters

Through the courts: <https://www.courts.state.co.us/Administration/language/request/index.cfm>

Through RPPS: <https://rpps.coloradorpc.org/frmLoginScreen.aspx?ReturnUrl=%2f>

Telelanguage: Available through RPPS. Telelanguage provides phone interpretation, and it should not be used when in-person interpretation can be done because Telelanguage is more expensive. It's best for quick calls to your clients, or when the language you need interpreted is rare.

To request an interpreter from Telelanguage in RPPS:

Go to your appointment screen > Enter your case number in the search box > Click on the blue billing button > Click on the Request Expert/Interpreter button > Type of Request is Interpreter – Telelanguage > Select the language from the drop down list > Select Telelanguage from the drop down box for requested individual > enter in the requested rate of .97 (for .97 per minute) > enter the estimated requested hours – keep in mind this is noted in hours not minutes > the requested amount will populate for you > enter in a reason for the request > click submit > An email will be sent once approved by the ORPC. If a language is listed on the Telelanguage sheets, but you don't see it on RPPS, please email payments@coloradorpc.org and staff will add the language for you.

To use Telelanguage:

1. Dial [800-514-9237](tel:800-514-9237)
2. Provide your access code: 18991
3. Provide the language needed
4. Provide *the attorney name, case number and parent name. Telelanguage will ask if you are an ORPC contractor*



ORPC TRANSCRIPT REQUEST FORM

This form is required for all ORPC Transcript Requests.
A filed court motion is not required for ORPC transcripts.

1. The requesting attorney fills out the top two boxes and submits to the court reporter. If an expedited request, the attorney must first get an ORPC approval signature in the bottom box before step 2.
2. The court reporter fills out the Invoice box and emails to payments@coloradoorpc.org for direct payment. Forms must be submitted no later than 30 days after the transcript delivery date.

Date		Requesting Attorney	
Date transcript needed by		Attorney Email	
Phone No.		u v	
Case No(s).		Parent's name	
Appellate Case Number		County	

Date of hearing(s)			
Will another person or party be requesting transcripts?	No	Yes	Who?

All transcript preparation and procedures are governed by CJD 05-03, and must follow those guidelines.

Court Reporter Invoice					
(To be completed and submitted by the Court Reporter for payment)					
Name			Tax Payer ID		
Phone No.					
E-mail					
Address					
City		State		Zip Code	
Date Order Form Rec'd			Date Transcript Delivered		
Delivery Method	Electronic Paper				
Number of pages _____ @ \$3.00 per page \$ _____					
Number of pages _____ @ \$0.75 per page \$ _____					
Number of pages _____ @ \$0.00 (No charge – state has already paid once) \$ -- NO CHARGE --					
TOTAL AMOUNT DUE: \$ _____					

Must have ORPC approval signature below prior to expedited transcript preparation.

FOR EXPEDITED ONLY (1. Attorney gets approval signature from ORPC; 2. Submit to Court Reporter)	
Date transcripts needed by: _____	Reason for expedited: _____
Number of pages _____ @ \$ 3.75 per page \$ _____	
_____	_____
ORPC: Melissa Michaelis Thompson	ORPC Approval Signature Date

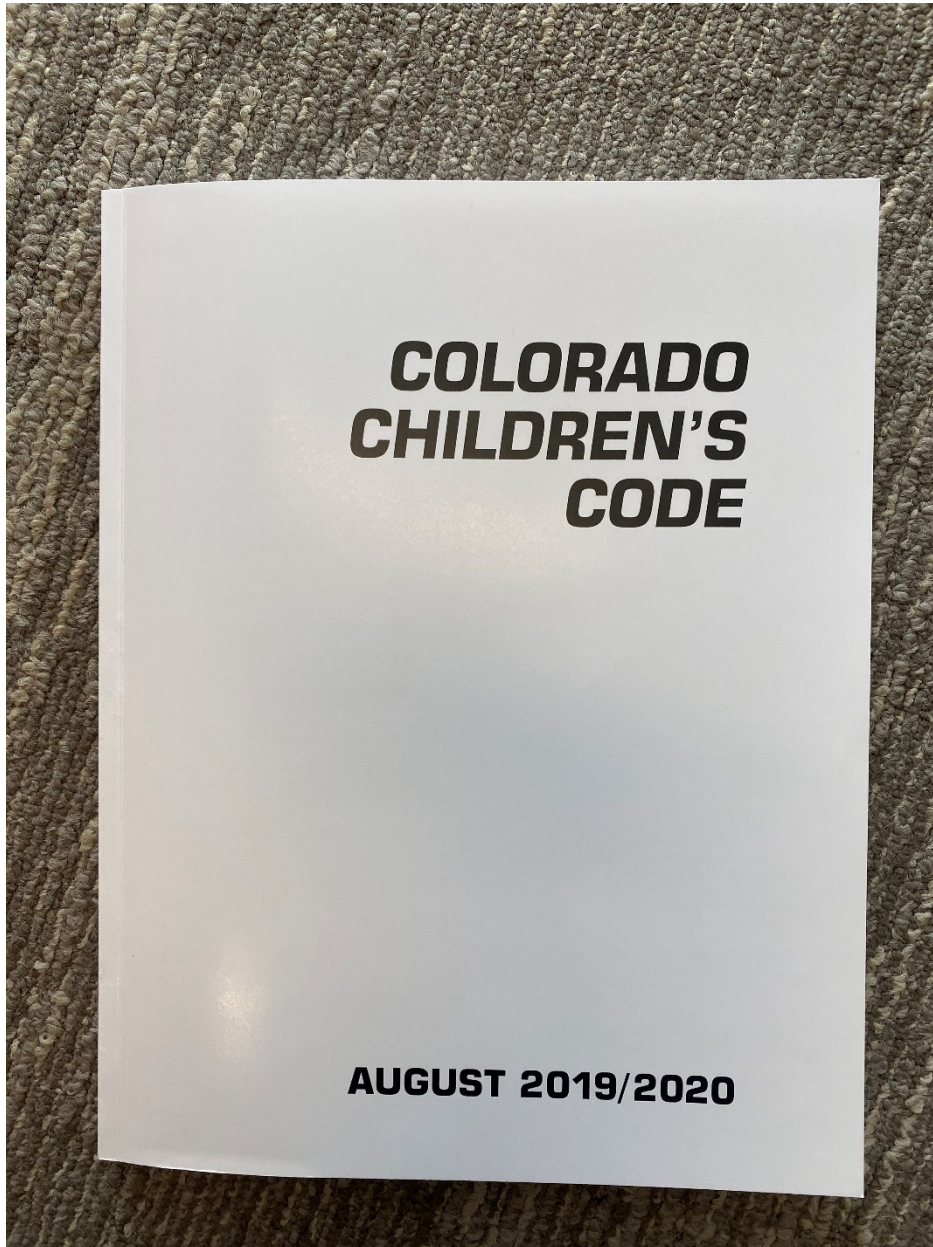
ORPC DOES NOT PAY THE EXPEDITED RATE WITHOUT PRE-APPROVAL FROM MELISSA MICHAELIS THOMPSON
If requesting expedited, email the completed form for approval signature to mthompson@coloradoorpc.org.

For all other questions, contact payments@coloradoorpc.org.

Children's Code

Order your copy of the Children's Code:

L.G. Printing Co.
Gerry Glassman
1355 S Laredo Ct
Aurora, CO 80017
(303) 751-3956



Social Workers and Experts

Defense Team Social Workers/Family Advocates

Why ask for a defense team Social Worker or Family Advocate?

- Research: improves permanency outcomes, timeframes, cost savings
- Client gains another confidential advocate
- Increases client engagement
- Improves communication
- Informs strategy
- Individualized support for a client
- Changes the dynamics

Examples of when you might ask for a defense Social Worker or Family Advocate (NON-EXHAUSTIVE!):

- Client may have intellectual capacity or mental health issues that interfere with representation and engagement
- Client seems overwhelmed with the process – needs more attention
- Client communication is challenging
- Concerned about proposed or adopted treatment plan
- Client's visits need to be addressed
- Prevent termination petition

What can a defense team Social Worker or Family Advocate do for your case?

- Advocate at family engagement meetings
- Evaluate client's needs
- Identify obstacles
- Observe visits
- Suggest strategies
- Support client at court

- Speak to collateral contacts: relatives, treatment providers, visit supervisors
- Accompany clients to critical appointments
- Research social science issues
- Work with other experts
- More!

Questions about defense team Social Workers/Family Advocates? Contact Jill

Experts

The ORPC offers experts in many subject areas, including:

Depositions

Disability Evaluations

Document/Handwriting Analysis

Domestic Violence

Educational

Family Advocate

Family Therapist

Forensic Consultant

ICWA

Marijuana

Mediation

Medical Doctor

Mental Health—Cognitive Evaluation

Mental Health—Psychiatric Evaluation

Mental Health—Psychological Evaluation

Mental Health—Review Prior Evaluation

Mental Health Evaluation

Parenting—Bonding and Attachment

Parenting—Parent-Child Interactional

Polygraph Evaluation/Examination

Psychosexual Evaluation

Reasonable Efforts Review

Relinquishment Counseling

SOMB Treatment/Diagnosis

Sexual Abuse—Nonoffending Parent Informed Supervision

Sexual Abuse—Nonoffending Parent Therapy

Shaken Baby—Pediatric Ophthalmologist

Shaken Baby—Neurologist

Substance Abuse—CAC I

Substance Abuse—CAC II

Substance Abuse—CAC III

Substance Abuse—Drug Toxicology and Testing

Substance Abuse—Dual Diagnosis

Substance Abuse—Licensed Professional Counselor

Substance Abuse—Marijuana

Substance Abuse—Perinatal Exposure

Therapist

Visit Supervisor

If there is an expert you want to work with who is not on our list, contact Jill to have the expert added